State of California

Fair Political Practices Commission

P.O. BOX 807 · SACRAMENTO, 95804 · · · 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance · · Administration · · Executive/Legal · · · Enfarcement · · · Statements of Economic Interest 322-5660 322-5901 322-6444

February 25, 1985

Eric Lauterer City Attorney City of Garden Grove P.O. Box 3070 Garden Grove, CA 92642

> Re: Your Request for Advice Our No. A-85-005

Dear Mr. Lauterer:

You wrote a letter January 2, 1985, requesting advice on behalf of Councilman Milton Krieger and Planning Commissioner Manuel Naves. This letter was received in this office on January 7, 1985. On January 22, 1985, I wrote to you seeking additional facts material to your advice request. On February 7, 1985, I had my law clerk, Montessa Holt, contact your office regarding receipt of those additional facts. To date, we have not received that information. Therefore, at this time we are closing our file on this advice request for administrative reasons.

This does not preclude you from renewing your request once you have all of the necessary information. We will, however, treat it as a new advice request.

Sincerely,

Robert E. Leidigh Counsel Legal Division

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# ir Political Practices Commission

P.O. BOX 807 - SACRAMENTO, 95804 --- 1100 K STREET BUILDING, SACRAMENTO, 95814

echnical Assistance • • Administration • • Executive/Legal • • (916) 322-5662

322-5660

322-5901

322-6441

Enforcement • • Statements of Economic Interest

January 22, 1985

Eric Lauterer City Attorney City of Garden Grove P.O. Box 3070 Garden Grove, CA 92642

> Re: Your Request for Advice Our No. A-85-005

Dear Mr. Lauterer:

You have written requesting the Commission's advice regarding Councilmember Milton Krieger and Planning Commissioner Manuel Nunes. Before we can provide you with advice which is tailored to their circumstances, we will need additional factual information. However, in the interim I am providing you with copies of two previous advice letters which are relevant to determining the issues which you have raised in your letter.

Before we can more fully respond to your advice request, it is important for us to know more about the "professional connection" of Mr. Nunes with Ballew and Associates, Inc. Is he a part owner; if so, how much does he own? In the attached letter from Ballew to Krieger, what is meant by the phrase: "... we propose to pay you a fee for any project which results from your efforts or introduction.

Your prompt response will assist us in providing you with timely advice.

Sincerely,

Robert E. Leidigh

Legal Division

REL:plh

Enclosures: Elam, No. A-82-054

Stein, No. A-83-230



### CITY OF GARDEN GROVE, CALIFORNIA

11391 ACACIA PARKWAY, GARDEN GROVE, CALIFORNIA 92640

MAILING ADDRESS: P.O. BOX 3070, GARDEN GROVE, CALIFORNIA 92642
OFFICE OF THE CITY ATTORNEY
(714) 638-6881

February 27, 1985

Robert E. Leidigh, Legal Counsel Fair Political Practices Commission P. O. Box 807 Sacramento, CA 95804

> RE: Your No. A-85-005 Request for Advice

Dear Mr. Leidigh:

In response to your letter of January 22, 1985, regarding the above topic, I offer the following information:

I have discussed with Councilman Krieger the letter from Ballew and Associates to Mr. Krieger and, in particular, the phrase "...we propose to pay you a fee for any project which results from your efforts or introduction." As you are aware, Mr. Krieger has just started his consulting services as a business venture within the past few months and specific dollar arrangements have not been placed in writing between the architectural firm and Mr. Krieger. It is his understanding that he will operate generally as follows:

First, he will operate his own business providing governmental services and advice to businesses primarily within the County of Orange who wish to do development business within cities in the County, excluding the City of Garden Grove, in which he serves as an elected official and councilmenber. In addition, he would be retained as a Director of Governmental Affairs for the Ballew architectural firm on a retainer basis which would provide him tentatively three percent (3%) of all business he brings to the firm up to \$100,000 and with a scale above that undecided presently between the parties.

I reiterate that Councilman Krieger would not receive any fees or compensation for any work performed by Ballew within the city limits of Garden Grove or for projects to be built within the City of Garden Grove nor would he have any other kinds of compensation from the Ballew firm for bringing to that firm any architectural work regarding projects within the City of Garden



# CITY OF GARDEN GROVE, CALIFORNIA

11391 ACACIA PARKWAY, P.O. BOX 3070, GARDEN GROVE, CALIFORNIA 92642

### OFFICE OF THE CITY ATTORNEY (714) 638-6881

January 2, 1984

Rodger Brown Chief Enforcement Division Fair Political Practices Commission P. O. Box 807 Sacramento, CA 95804

RE: Request for Conflicts of Interest Opinion.

Dear Mr. Brown:

#### Background:

The City of Garden Grove is a general law city which has a five-member city council with four members elected for four year terms and one mayor elected for a two-year term. Milton Krieger has been on the Council for over ten years and at the recent November election was re-elected for four more years. He is presently in the process of changing his occupational area from being involved in selling retail and wholesale furniture products to that of a consultant in the general area of intergovernmental relations. Councilman Krieger having acquire over the years, substantial areas of expertise in connection with the function of local government including the land issues that are concerned therewith, has decided to place that expertise in an area that will allow him to operate as a consultant dealing with communities primarily in Southern California and developers and property thereof.

In connection therewith he contemplates entering into a retainer agreement with Ballew and Associates Inc. located in Orange County (the county in which the City of Garden Grove is located) under the terms of which he will receive compensation under a formula in accordance with the attached letter.

The City of Garden Grove has a planning agency separate of the City Council and the members thereto are appointed by the Mayor with the consent of the City Council. Mr. Manuel Nunes presently serves on the Planning Commission since June 18, 1984. He was recommended to the Mayor by Councilman Milton Krieger. By profession he is an architect with offices located in the County of Orange and professionally connected with Ballew and Associates, Inc.

#### Question:

Because of the importance of both Councilman Krieger as a voting member of the City Council and Planning Commissioner Manual Nunes as one of the seven members of the City's Planning Commission, it is critical that no impediments be created which would prevent them from participating in any proceedings coming before the public bodies.

Because of the financial arrangements described above, it appears that under existing law and, in particular, the conflict of interest provisions related to the Political Reform Act, that circumstances are now presented that may place them in a position of non-participation and having to declare in a public meeting a conflict of interest because of the financial interest they may have.

Two categories appear to exist - one is those matters which would come before the bodies which are part of the activities in the City of Garden Grove, that is, circumstances wherein either Councilman Krieger as a consultant received compensation in connection with a project that ultimately comes before the City Council or the situation where Commissioner Nunes is asked to review, as a Planning Commissioner, the matter prior to it reaching the Council. To date one specific factual pattern in this area exists.

For the past two years Councilman Krieger has also served as Chairman of the Garden Grove Agency for Community Development (a redevelopment agency created under state law). In that capacity and in the capacity as a council member and in the capacity as a subcommittee chairman dealing with economic development in the community, he along with other council members have spoken to potential developers who might develop parcels of land owned by the Agency in the community. In particular, one company was Webb Company. The Company initially was brought to the attention of Councilman Krieger by former City employee, Mannie Nunes, now Commissioner Nunes.

Thereafter it appeared they were interested in developing a particular parcel of eight acres in the community which had been discussed. Their interest in development of that parcel was brought to light and Councilman Krieger, along with a City staff member and with the Council's knowledge and approval, met with the developer, Webb Company, at their home office in Lexington, Kentucky. As a result of those discussions, the developer has indicated an interest to enter into negotiations with the Garden Grove Agency for Community Development as to a particular parcel of land in the community. The developer has indicated that they want to retain the architectural firm of Planning Commissioner Manual Nunes to provide a portion of the services in connection with the project. In addition, it is that same firm with which Councilman Krieger, after the first of the year, has indicated his intention to be retained as a consultant on a retainer formula.

I am advised by both Councilman Krieger and Planning Commissioner Nunes that neither party contemplates receiving any compensation from any company that because of city business will have a matter brought before the Planning Commission or City Council.

Based on the preceding information and any further details that you also may desire, I am requesting an opinion as to the areas described.

Respectfully,

ERIC LAUTERER City Attorney

EL:mes 5028G

cc: City Manager

Attachment



December 14, 1984

Mr. Milton Krieger 12761 Canter Street Garden Grove, Ca. 92645

Dear Milt,

This is to cover our recent conversations regarding your upcoming affiliation to our company as Business Development/Governmental Relations Consultant.

We are excited about this experiment, whose approach you and ourselves will review after six months, and look forward to working with you, officially beginning January 1, 1985, if that is acceptable.

The method of operation is flexible from our viewpoint, and we do not at this time have a plan on how this should all happen. Your views and ideas on the subject are welcome.

Essentially, our perception of this relationship is one where you assist us in the promotion of new business through your retwork of associates in the private and government sectors. We will collaborate with you on project leads which you may uncover and generally supply you with logistical support, as necessary.

To compensate you for your efforts, we propose to pay you a \$ 500.00 per month consultation fee, the first payment due on January 15, 1985. Additionally, we propose to pay you a fee for any project which results from your efforts or introduction. The amount of this, we suggest, should be a percentage of our gross contract sum, worked per the following formula, to be prorated and paid to you upon our

receipt of payment from contractual agreements:

\$ 0 - \$ 100,000. contract - 38 \$ 100,000. \$ 250,000. - 2.75% Over \$ 250,000. - 2.5%

Please examine the preceeding and let us know whether you feel it is acceptable. For our part, we have not attempted a scheme such as this in the past, and will work with any plan that is equitable.

I am enthusiastic about the potential of our association, and anticipate much success for us all. More importantly, we hope you will be happy working with us and that this will become the first step into a successful land and building development career for you.

Best Wishes,

John J. Ballew

JJB/bb

Grove. He would not be a stockholder in the firm, nor a partner in the firm, nor entitled to division of any profits in the firm, which could in any way compensate him for work performed within the City limits of Garden Grove by the Ballew architectural firm.

Drawing your attention to the status of Mr. Manuel Nunes with Ballew and Associates, I am advised that as of February 26, 1985, he has no written contractual arrangement of ownership with the company, i. e. Ballew and Associates. He presently is employed on a fixed salary with certain company benefits including health insurance and an automobile. Ballew and Associates are in the process of having their attorneys and their accountants compute the value of the company in order to compute a formula that is agreeable to both Ballew and Associates and Mr. Nunes as to ownership rights for Mr. Nunes.

Though verbal discussions have gone on between Mr. Nunes and Ballew and Associates, he presently is not a part owner of the company and, in fact, owns no portion of the company.

I trust this will provide sufficient information so that you can proceed with our request.

Respectfully yours,

ERIC LAUTERER City Attorney

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